

*To his Grace, His Majesties high Commissioner, and
the Right Honourable the Estates of Parliament,*

*Mary Countess of Callender, and her Husband for his
Interest,*

Humbly sheweth,

That where *I* being conveyed before the Lords of Their Majesties Privy Council, at the Instance of *James* now Earl of *Callender* and the Earl of *Linlithgow*, and his other Tutors for their Interest; he obtained against me the Modification of one Thousand pounds *Scots* of Aliment yearly, to be payed to him out of my Joynture, wherein I was secured by all the Security that Law could make me: By which Sentence being greatly grieved, I cannot but lay before this high and Honourable Court of Parliament, the many and strong Reasons that I offered to the Lords of his Majesties Privy Council, in my own Defence. As first, That there was no pressing Necessity for any Aliment, since the Earls Mother had given him a thousand Merks yearly, as was acknowledged, and he was but an Infant, whom such a Sum in his Circumstances might very well serve. 2. The Necessity being taken off, and this question of Aliment dipping visibly upon the Point of Civil Right, it was undeniable that the Pursuite was more proper to be intended before the Lords of Session than before the Lords of the Privy Council, who are not in use to receive Complaints of that kind, except where the Necessity is urged, as a matter that admits of no delay, which could not be alledged in this case. But 3. To shew that your Petitioner desired no delay but a fair Discussion in Point of right, I offered to consent that the matter should be summarily discussed by the Lords of Session. 4. To come close to the Case it self, I did contend that the ordinary Motives of Equity for giving the Heir an Aliment against the Liferenter, did wholly cease in my case, in as much as I am nothing in Blood to this Earl of *Callender*, and that he is not Lineally descended of me, nor is the Debt that straitnes him either my Husbands or his predecessors Debts, but on the contrary, Debts contracted by his Father after my Husbands decease, and that I was possessed of my Joynture, so that to burden me with an Aliment in this Earls favours, where there was neither ty of Blood, nor the least colour of Equity; upon the account of my Husbands Debts, was a case wholly unprecedented.

But 5. As I truly am a Stranger to the Family in Blood, though never in kindness, so any Joynture I have was most onerously purchased by the Portion I brought with me, which was no less than 38000 pounds *Scots*, and for which all the Joynture was but about 8000 Merks yearly, which is the least that a Person of my Quality can live upon, and the same can admit of no Deduction: whereby it is evident, that there is no more Reason to take an Aliment off me, than of any other singular Successor. 6. In an Agreement with this Earls Father,



Father, I got from him an Ratification of my Jointure, with an expresse Reun-
 nciation of all Claims of Aliment, which in sense and Reason seems effectually
 to exclude this Earl who is his Son and Heir. 7. Upon the whole matter
 I am in effect, no more lyable to an Aliment to this Earl of Callender, than if
 by his own Debt and Mismanagment he had brought himself to this Necessity,
 which no person will, or can say should ever be a Strait upon me, for as to me
 this Earl and his Father are both the same person, and the Fathers Debt doth
 now straiten his Son: It was never my Husbands Debt, but contracted after
 his death, and my Possession of my Jointure: and farther this Claim of Ali-
 ment is renounced by the Father, so that on all these Considerations, it is plain and
 evident that I can be no more obliged to Aliment this Earl; then if he had brought
 himself to this Distress by his own Mismanagment and Extravagancie, which
 no rational man will alledge; seing, therefore that my Case is so singular, and
 my Defences were so strong: and that notwithstanding, I clearly proved eve-
 ry Point, that I alledged in matter of Fact: it was yet cast by the Lords of
 Councils Sentence, I cannot but in all humility Address my self to this High
 and Sovereign Court, as the only Court and Power where any Help or Remedy
 may be found.

May it therefore please your Grace and Lordships, in consideration of
 the Premisses, to suspend the foresaid Sentence of Council, and all fur-
 der Execution upon it, and to grant Warrant to Cite the said Earl and
 his Tutors for their interest, to compear before your Lordships, to hear
 the foresaid Case and Question, with the Sentence upon it reviewed and
 rectified, or otherways to remit the Discussion thereof to the Lords of
 Council and Session, the only proper Judges of Right, that they may
 determine therein, notwithstanding of the foresaid Sentence of Privy
 Council, and as if the same had never been pronounced.

And your Grace and Lordships Petitioner shall ever pray.

